

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/822,079	Applicant(s) BERGER, ALLEN	
	Examiner Blair M. Johnson	Art Unit 3634	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on _____ is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

_____.

/Blair M. Johnson/
Primary Examiner, Art Unit 3634

Regarding (3): Appellant mentions the amendment of 3/19/07. This should be omitted from this section. The statement regarding the amendment of 5/2/08 and subsequent advisory action of 5/14/08 is correct and this should be the only entry in this section.

Regarding (4): Appellant has not properly provided a summary of the claimed subject matter. Claim 1 must essentially be reproduced with reference numerals and locations in the specification given for each element as it appears in the claim, as stated above in item 4.

Regarding (6): Appellant has not provided a heading for each of the two rejections followed by an argument thereof. Appellant has included several headings and sections that are not of the proper format and that do not appear to address the specific rejections. Some of the subject matter in these sections are pertinent to the outstanding rejections and may be incorporated into Appellant's arguments.

Regarding (10): Appellant states in section (9), evidence appendix, that a declaration is to be used as evidence. However, such declaration was denied entry. See the advisory action of 10/10/08.